

Public Chapter 188

SENATE BILL NO. 382

By Atchley

Substituted for: House Bill No. 1368

By Sands

AN ACT To amend Tennessee Code Annotated, Section 56-9-330, relative to the priority of distribution of claims from the estates of insolvent insurance companies.

WHEREAS, The General Assembly has enacted Tennessee Code Annotated, Title 56, Chapter 9, to provide for a comprehensive scheme for the rehabilitation and liquidation of insurance companies; and

WHEREAS, Tennessee Code Annotated, Section 56-9-330, creates certain priorities with respect to the distribution of claims from the estate of an insolvent insurance company; and

WHEREAS, Recent federal court decisions have created confusion as to how the priorities established by Tennessee Code Annotated, Section 56-9-330, should be reconciled with federal priority statutes; and

WHEREAS, It is in the interest of the policyholders of insolvent insurance companies that Tennessee have an organized scheme of insurance company liquidation that protects the interests of policyholders; and

WHEREAS, In light of the ambiguity resulting from recent federal court decisions, the General Assembly has determined that it is necessary to restate and clarify the priorities of distribution from the estates of insolvent insurance companies; and

WHEREAS, Since the restatement of priorities contemplated by this act is curative and remedial, this act should apply to all existing insolvencies and insolvencies occurring after its effective date; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-9-330, subdivision (2), is amended by renumbering the subdivision as subdivision (4), and deleting the word and numeral "Class 2" and substituting instead the word and numeral "Class 4".

SECTION 2. Tennessee Code Annotated, Section 56-9-330, subdivision (3), is amended by renumbering the subdivision as subdivision (2), deleting the word and numeral "Class 3" and substituting instead the word and numeral "Class 2".

SECTION 3. Tennessee Code Annotated, Section 56-9-330, is amended by adding the following language as a new subdivision (3):

(3) Class 3. Claims of the federal government, including those that otherwise would be within Class 5, but not including claims that are within Class 2.

SECTION 4. Tennessee Code Annotated, Section 56-9-330, subdivision (4), is amended by renumbering the subdivision as subdivision (5), and deleting the word and numeral "Class 4" and substituting instead the word and numeral "Class 5".

SECTION 5. Tennessee Code Annotated, Section 56-9-330, subdivision (5), is amended by renumbering the subdivision as subdivision (6), deleting the word and numeral "Class 5" and substituting instead the word and numeral "Class 6"; deleting the words "The federal or" and deleting the word and numeral "Class 3" and substituting instead the word and numeral "Class 2" in the first sentence; adding the phrase "state and local" after the word "any" in the second sentence; and deleting the language "subdivision (8)" and substituting instead the language "subdivision (9)" in the third sentence.

SECTION 6. Tennessee Code Annotated, Section 56-9-330, subdivision (6), is amended by renumbering the subdivision as subdivision (7), deleting the word and numeral "Class 6" and substituting instead the word and numeral "Class 7", and deleting the language "subdivisions (7) and (8)" and substituting instead the language "subdivisions (8) and (9)".

SECTION 7. Tennessee Code Annotated, Section 56-9-330, subdivision (7), is amended by renumbering the subdivision as subdivision (8), and deleting the word and numeral "Class 7" and substituting instead the word and numeral "Class 8".

SECTION 8. Tennessee Code Annotated, Section 56-9-330, subdivision (8), is amended by renumbering the subdivision as subdivision (9), and deleting the word and numeral "Class 8" and substituting instead the word and numeral "Class 9".

SECTION 9. Tennessee Code Annotated, Section 56-9-330, is amended by designating all of the language, as amended by this act, as subsection (a) and by adding a new subsection (b) as follows:

(b) If any classification or priority provided for in subsection (a), or the application of such classification or priority to any person or circumstances, is held to be unconstitutional or otherwise invalid, the invalidity shall not affect the remaining portions or applications of subsection (a) that can be given effect without the invalid portion or application.

SECTION 10. The priority of distributions stated in this act shall apply to all existing insolvencies and insolvencies occurring after the effective date hereof.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.